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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHELE FIORE,

Defendant.

Case No. 2:24-cr-0155-JAD-DJA

**DEFENDANT'S RESPONSE TO  
GOVERNMENT'S OMNIBUS MOTION  
IN LIMINE (ECF NO. 29)**

This Motion is filed timely.

**I. INTRODUCTION**

This Court is familiar with the facts and circumstances as alleged by the Government, and therefore in the interest of expediency Ms. Fiore submits that the facts and circumstances of the indictment are and concern the alleged violations of campaign finance laws resulting in the purported offenses alleged.

The Government spills much ink with grandiose and meritless arguments in its final attempts to completely gut Ms. Fiore's defense she seeks to illuminate the jury with as allowable through due process guardrails. *See* ECF No. 29.

The unfathomable and nefarious acts the Government has engaged in this particular case remains unprecedented in any campaign finance violation case in the history of the State of Nevada. The overt designation of a public official to deliberate deny due process guardrails in

1 purported investigations of campaign finance violations rises to the level of egregiousness that is  
2 simply of historic proportions. This is further compounded by the Government's deliberate failure  
3 to provide any documentation in over 90,000 pages of discovery including recordings, that would  
4 substantiate or justify the classification of a public official, with no preceding criminal behavior, a  
5 Domestic Terrorist and subsequently increasing Ms. Fiore's Band Level from a I to a II as  
6 described infra. Accordingly, Ms. Fiore is entitled to present a complete defense as guaranteed by  
7 the Fourth and Sixth Amendments to the United States Constitution.

## 8 **II. ARGUMENT**

### 9 **1. Rule 403 prohibits the introduction of this evidence.**

10 Whether rooted directly in the Due Process Clause of the Fourteenth Amendment, or in the  
11 Compulsory Process or Confrontation clauses of the Sixth Amendment, the Constitution  
12 guarantees criminal defendants a meaningful opportunity to present a complete defense. *Jones v*  
13 *Davis*, 8 F.3d 1027 (9th Cir. 2021), *citing to Crane v. Kentucky*, 476 U.S. 683, 690, 106 S.Ct.  
14 2142, 90 L.Ed.2d 636 (1986) (citations and quotation marks omitted). This guarantee includes, "at  
15 a minimum, ... the right to put before a jury evidence that might influence the determination of  
16 guilt." *Pennsylvania v. Ritchie*, 480 U.S. 39, 56, 107 S.Ct. 989, 94 L.Ed.2d 40 (1987). In many  
17 criminal cases, the "most important witness for the defense" in that determination of guilt "is the  
18 defendant himself." *Rock v. Arkansas*, 483 U.S. 44, 52, 107 S.Ct. 2704, 97 L.Ed.2d 37 (1987).

19  
20 A defendant's right to present a complete defense is abridged by any restrictions on defense  
21 evidence that are "arbitrary or disproportionate" and that infringe on the defendant's "weighty  
22 interest." *Id.* *citing to Holmes v. South Carolina*, 547 U.S. 319, 324, 126 S.Ct. 1727, 164 L.Ed.2d  
23 503 (2006) (quoting *United States v. Scheffer*, 523 U.S. 303, 308, 118 S.Ct. 1261, 140 L.Ed.2d  
24 413 (1998) ).

25 Under this framework, the restriction of a defendant's evidence pursuant to an evidentiary  
26 rule is arbitrary when applying the rule serves no legitimate purpose in the case at hand.  
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1 The Government's attempts at stifling Ms. Fiore's ability to present a complete defense and  
2 demonstrate the bizarre and unprecedented actions taken by the Government in this case are  
3 astonishing. Taking into consideration that the Government's classification of Ms. Fiore, a public  
4 servant as a Domestic Terrorist over the course of five years without any justification for same as  
5 delineated *infra*, is likewise an abhorrent and meritless abuse of due process that has yet to be seen  
6 in any type of case against a public servant for purported and alleged campaign finance violations.

7  
8 **1. Motion to preclude form of argument to elicit jury nullification**

9 Jury nullification occurs when a jury acquits a defendant, even though the government  
10 proved guilt beyond a reasonable doubt. *United States v. Powell*, 955 F.2d 1206, 1212–13 (9th Cir.  
11 1992). It is well established that jurors have the power to nullify, and this power is protected by  
12 “freedom from recrimination or sanction” after an acquittal. *Merced v. McGrath*, 426 F.3d 1076,  
13 1079 (9th Cir. 2005). However, juries do not have a right to nullify, and courts have no  
14 corresponding duty to ensure that juries are able to exercise this power, such as by giving jury  
15 instructions on the power to nullify. *Id.* at 1079–80.

16 On the contrary, “courts have the duty to forestall or prevent [nullification], whether by  
17 firm instruction or admonition or . . . dismissal of an offending juror,” because “it is the duty of  
18 juries in criminal cases to take the law from the court, and apply that law to the facts as they find  
19 them to be from the evidence.” *Id.*

20  
21 Although a court has “the duty to forestall or prevent [nullification],” including “by firm  
22 instruction or admonition,” *Merced*, 426 F.3d at 1080, a court **should not state** or imply that (1)  
23 jurors could be punished for jury nullification, or (2) an acquittal that results from jury nullification  
24 is invalid. Neither proposition is correct, and these are the only legal principles that protect a jury's  
25 power to nullify. *See United states v Kleinman*, 880 F.3d 1020 (9<sup>th</sup> Cir. 2018).

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1 While jurors undoubtedly should be told to follow the law, the statement that there is no  
2 valid jury nullification misstates the role of nullification because an acquittal is valid, even if it  
3 resulted from nullification. *Id.* at 1040.

4 In *Kleinman*, the Ninth Circuit rejected the Government's assertions as to a *Kryszke*  
5 instruction<sup>1</sup> should not become the go-to instruction in trials where jury nullification is a concern,  
6 and courts should "generally avoid[] such interference as would divest juries of their power to  
7 acquit an accused, even though the evidence of his guilt may be clear." *Citing to United States v.*  
8 *Simpson*, 460 F.2d 515, 520 (9th Cir. 1972).

9 Here the Governments Motion makes classifications of specific evidence which they label  
10 as irrelevant and inadmissible. Specifically, the following:

- 11 • Evidence or argument about the federal prosecutions related to the Bundy<sup>2</sup> ranching  
12 family, and/or the defendant's public advocacy on their behalf;
- 13 • Evidence or argument related to the decision of the United States Attorney's Office in the  
14 District of Nevada, including any individual prosecutor in that office, to participate or not  
15 participate in the instant investigation and prosecution;

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18 <sup>1</sup> *United States v. Krzyske*, 836 F.2d 1013, 1021 (6th Cir. 1988), a case in which the defendant mentioned jury  
19 nullification in his closing argument, and during deliberations the jury asked the court about the doctrine. "The court  
20 responded, 'There is no such thing as valid jury nullification . . . You would violate your oath and the law if you  
21 willfully brought in a verdict contrary to the law given you in this case.'" *Id.* The Sixth Circuit rejected the defendant's  
22 argument that the instruction was coercive, noting that "[a] jury's 'right' to reach any verdict it wishes does not . . .  
23 infringe on the duty of the court to instruct the jury only as to the correct law." *Id.* The Sixth Circuit did not discuss  
24 whether the court's instructions implied that the jury would be punished for nullification, or that an acquittal that  
25 resulted from jury nullification would be void.

26 <sup>2</sup> On January 8, 2018, after permitting written briefing, the district court concluded that the Brady violations were so  
27 egregious and prejudicial that the indictment needed to be dismissed with prejudice. It found "that retrying the case  
28 would only advantage the government by allowing [it] to strengthen [its] witnesses' testimony based on the knowledge  
gained from the information provided by the defense and revealed thus far." The court also highlighted "the  
prosecution's failure to look beyond the FBI file that was provided" for additional relevant information constituted a  
"reckless disregard for its [constitutional] obligations to learn and seek out favorable evidence." The court  
characterized the government's "representations about whether individuals were technically 'snipers' or not 'snipers'  
[as] disingenuous" given that the FBI's own documents referred to government "snipers" in the operation. It concluded  
that the FBI's failure to produce these documents was "flagrant prosecutorial misconduct in this case even if the  
documents themselves were not intentionally withheld [by the U.S. Attorney's Office] from the defense." Thus, it  
decided that no lesser sanction was available because the government's "conduct has caused the integrity of a future  
trial and any resulting conviction to be even more questionable." Retrial "would only advantage the government." The  
court dismissed the indictment with prejudice as a remedy for a due process violation and under its supervisory  
powers. *See United States v Bundy* No. 18-10287 (9th Cir. 2020)

- Evidence or argument about decisions by state and local authorities whether to investigate or prosecute the misconduct charged in the superseding indictment;
- Argument that the defendant was selectively or vindictively prosecuted based on her political beliefs or her views about federal law enforcement;
- Evidence of charitable works performed by the defendant unrelated to Charity A or Political Action Committee A;
- Argument regarding the potential sentence that the defendant might receive, including in light of her age.

Ironically, the first four requests made *supra*, are directly correlated to the Government's own acts and potential inequities of same. It is indisputable that the Government classified Ms. Fiore a Domestic Terrorist since at least prior to, June 30, 2020 despite no previous criminal records or acts to support said classification. This classification was unmerited since there were no legal grounds to designate a Las Vegas City Councilwoman and Mayor Pro Temp a Domestic Terrorist.

Since 2019, the Department of Homeland Security and the Federal Bureau of Investigation has been using leveled Threat Bands including five threat categories to understand the Domestic Terrorism threat. It is significant to note that the Government classified, Ms. Fiore under on a Level II Threat Band<sup>3</sup> when she served as a Las Vegas City Councilwoman and presently as a Nye County Justice of the Peace. This is indicated in the July 1, 2024 memorandum by Jaski Kyle

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<sup>3</sup> A Level II Threat Band is described as (2) Anti-Government or Anti-Authority Violent Extremism: This threat category encompasses the potentially unlawful use or threat of force or violence, in violation of federal law, in furtherance of political and/or social agendas, which are deemed to derive from anti-government or anti-authority sentiment, including opposition to perceived economic, social, or racial hierarchies, or perceived government overreach, negligence, or illegitimacy. This threat category typically includes threats from anarchist violent extremists (AVEs), militia violent extremists (MVEs), sovereign citizen violent extremists (SCVEs), and anti-government or anti-authority violent extremists-other (AGAAVE-Other). [Emphasis added] See *bi-dhs-domestic-terrorism-strategic-report-2023.pdf*

Robert, *See* DOJ 007825. It is also significant to note, that Ms. Fiore's Threat Band was increased at some point since on June 30, 2020, Ms. Fiore's Threat Band was Level I<sup>4</sup>. *See* DOJ 1163.

It is believed that this classification occurred after her involvement with the Bundy ranching family; *ergo*, but-for the Bundy ranching incident, Ms. Fiore would not have been subject to that classification of a Domestic Terrorist, and further due process guardrails would have been assured to Ms. Fiore that otherwise subjected her to excessive government overreach.

This classification was present, even as Ms. Fiore, a sitting Justice of the Peace of Nye County presented herself to her arraignment on July 16, 2024 as evidenced by the heightened level of security in and around the United States Federal Courthouse in Las Vegas. Multiple law enforcement vehicles were parked on Las Vegas Boulevard, blocking the lane closest to the courthouse, and multiple U.S. Marshals were present at the courthouse entrance, as well as in Magistrate Albright's courtroom. The frivolous and extreme security measures that were taken during Ms. Fiore's appearance at her arraignment were a tacit acknowledgment of her connection to the Bundy case and the Government's Level II designation of her.

It is also significant to note that Ms. Fiore, as a public official, overwhelmingly advocated for the Bundy ranchers and for the sanction of the extremely egregious prosecutorial misconduct found in said case against AUSA Steven Myhre.<sup>5</sup> Ironically, Mr. Myhre's name is repeatedly seen throughout the discovery in this matter as it is clear that his participation in Ms. Fiore's case is overwhelming. In fact, the simple fix should have been that Mr. Myhre should have passed the

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<sup>4</sup> Level I Threat Band is described as (1) Racially or Ethnically Motivated Violent Extremism: This threat category encompasses ***threats involving the potentially unlawful use or threat of force or violence***, in violation of federal law, in furtherance of political or social agendas which are deemed to derive from bias, often related to race, held by the actor against others, including a given population group. Racially or ethnically motivated violent extremists (RMVEs) use both political and religious justifications to support their racially- or ethnically-based ideological objectives and criminal activities. One set of RMVE threat actors use their belief in the superiority of the white race to justify their use of violence to further their political, cultural, and religious goals. A separate and distinct set of RMVE threat actors use real or perceived racism or injustice in American society, their desire for a separate Black homeland, and/or violent Page 5 of 46 interpretations of religious teachings to justify their use of violence to further their social or political goals. [Emphasis added] *See bi-dhs-domestic-terrorism-strategic-report-2023.pdf*

1 case to another AUSA in his office the moment he realized that it was Ms. Fiore who was the  
2 target, as to avoid all potential accusations of impropriety.

3 Most important though is that the Government failed to produce any documentation  
4 regarding both the Level I and Level II designations that would have justified such designations.  
5 The Government has failed to produce any of the following information in the over 90,000 pages  
6 of discovery disclosed to Ms. Fiore:  
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- 8 • Information or an allegation indicating the existence of federal criminal activity or a  
9 threat to national security (or to protect against such activity or threat).
- 10 • Any articulable factual basis that reasonably indicates the existence of federal criminal  
11 activity or a threat to national security (or to protect against such activity or threat)
- 12 • Memorandum including notices in support and regarding threat Level Banding  
13 including closure within six months and/ or extensions for six-month increments
- 14 • Indication that protocol was complied with and the required legal review for any FBI  
15 intelligence product, such as an Intelligence Information Report (IIR), related to a  
16 potential SIM or other sensitive information, in accordance with the guidelines in the  
17 FBI's DIOG and identified "legal review triggers."
- 18 • Similarly, in accordance with DHS I&A policy, any memoranda demonstrating  
19 compliance with rigorous review prior to dissemination to ensure compliance with all  
20 legal requirements; policies for the protection of privacy, civil rights, and civil liberties;  
21 and oversight principles, guidelines, and procedures.

22 Ms. Fiore's right to disclose and utilize the Government's own exhibits and develop factual  
23 testimony at trial regarding same is absolute. Notwithstanding same, it is also significant to note  
24 that Rule 404(b) applies to non-witnesses, under *United States v. McCourt*, 925 F.2d 1229 (9th Cir.  
25 1991). *See also United States v. Cruz-Garcia*, 344 F.3d 951, 955 n. 3 (9th Cir. 2003) which Ms.  
26 Fiore is entitled to present evidence thereon.

27 As to Ms. Fiore's age and implications regarding punishment, it would be improper  
28 argument as it is not the job of the jury to consider such matters. The jury is only to consider

1 whether the Government had satisfied its burden of proving their allegations against Ms. Fiore  
2 beyond a reasonable doubt.

3  
4 **A. Ms. Fiore Has a Due Process Right to Present Evidence of Prosecutorial  
Vindictiveness under *Jenkins***

5 Ms. Fiore may establish a vindictive prosecution claim “by producing direct evidence of  
6 the prosecutor’s punitive motivation,” *United States v. Jenkins*, 504 F.3d 694, 699 (9th Cir. 2007).  
7 Without direct evidence, Ms. Fiore may establish a prosecutorial vindictiveness claim by following  
8 a burden shifting framework and creating a “presumption of vindictiveness.” *Id.* A rebuttable  
9 presumption of vindictiveness is created “by showing that the circumstances establish a  
10 ‘reasonable likelihood of vindictiveness.’” See *United States v. Kent*, 649 F.3d 906, 912 (9th Cir.  
11 2011). (quoting *United States v. Goodwin*, 457 U.S. 368, 373 (1982)); see also *United States v.*  
12 *Gallegos-Curiel*, 681 F.2d 1164, 1169 (9th Cir. 1982).  
13  
14

15 The designation of Ms. Fiore as a Level I Domestic Terrorist which was subsequently  
16 modified to a Level II Domestic Terrorist without any discovery or justification received for said  
17 designation is disturbing in and of itself. The designation of an elected public official, who has  
18 served the State of Nevada for over a decade, as a Domestic Terrorist is equally inconceivable as it  
19 is an unfathomable proposition.  
20  
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22 This is even more egregious taking into consideration that this case and the almost decade  
23 long investigation into Ms. Fiore involves alleged campaign finance crimes which have nothing to  
24 do with domestic terrorism or threats thereof. Particularly disturbing though is the presence of  
25 overwhelming evidence indicating that this indictment over alleged campaign finance crimes has  
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1 taken different forms of allegations as indicated in the discovery, which demonstrates an  
2 overwhelming level of vindictiveness in the course and scope of the Government's investigation.

3  
4 It is clear that the Government seeks to have this Court allow it to gut Ms. Fiore's due  
5 process rights in presenting evidence of vindictiveness, in the same manner that it abused Ms.  
6 Fiore's due process rights with frivolous designations of Domestic Terrorist to avoid proper  
7 guardrails ensuring Ms. Fiore's civil liberties remain intact.  
8

9 **2. Motion to Admit Evidence of Other Crimes, Wrongs, or Acts under FRE 404(b)**

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11 At the outset, "the standard of admissibility when a criminal defendant offers similar acts  
12 evidence as a shield need not be as restrictive as when a prosecutor uses such evidence as a  
13 sword." *U.S. v. Wright*, 625 F.3d 583 (9th Cir. 2010), citing to *United States v.*  
14 *Aboumoussallem*, 726 F.2d 906, 911 (2d Cir. 1984) (discussed with approval in *McCourt*, 925 F.2d  
15 at 1234, explaining that " *Aboumoussallem* is exemplary of a number of cases in which courts have  
16 admitted similar acts evidence for defense purposes").  
17

18  
19 Specific instances of prior conduct offered to prove one's character "possesses the greatest  
20 capacity to arouse prejudice, to confuse, to surprise, and to consume time," so "the rule confines  
21 the use of evidence of this kind to cases in which character is, in the strict sense, in issue and hence  
22 deserving of a searching inquiry." Advisory Committee Notes, Fed. R. Evid. 405. See also *United*  
23 *States v Charley* (9th Cir. 2021).  
24

25 It is well-established that evidence of a prior crime, wrong, or incident "is not admissible to  
26 prove a person's character in order to show that on a particular occasion the person acted in  
27 accordance with the character." Fed. R. Evid. 404(b)(1). "The rule is designed to avoid a danger  
28

1 that the jury will punish the defendant for offenses other than those charged, or at least that it will  
2 convict when unsure of guilt, because it is convinced that the defendant is a bad man deserving of  
3 punishment.” *United States v. Brown*, 880 F.2d 1012, 1014 (9th Cir. 1989) (internal citation  
4 omitted).

6 Rule 404(b), however, carves out an exception to the general rule where the proposed  
7 evidence is offered to serve “another purpose, such as proving motive, opportunity, intent,  
8 preparation, plan, knowledge, identity, absence of mistake, or lack of accident.” Fed. R. Evid.  
9 404(b)(2).

11 The Government carries the burden to prove that the proposed evidence satisfies four  
12 requirements:

- 14 (1) the evidence tends to prove a material point (materiality);  
15 (2) the other act is not too remote in time (recency);  
16 (3) the evidence is sufficient to support a finding that defendant committed the other act  
17 (sufficiency); and  
18 (4) . . . the act is similar to the offense charged (similarity).

19 *United States v. Berckmann*, 971 F.3d 999, 1002 (9th Cir. 2020).

21 But even then, “[t]he use of such evidence must be narrowly circumscribed and limited.”  
22 *United States v. Bailleaux*, 685 F.2d 1105, 1109 (9th Cir. 1982).

23  
24 “[P]rior bad act evidence is allowed to show motive only when motive is in turn relevant to  
25 establish an element of the offense that is a material issue.” *Brown*, 880 F.2d at 1014. But “[t]he  
26 prior wrongful acts must establish a motive to commit the crime charged, not simply a propensity  
27 to engage in [violence].” *Id.* at 1015.  
28

1 Here the Government fails to satisfy its burden of establishing a cogent basis for which to  
2 infer that Ms. Fiore's intent from the factual circumstances of prior incidents is similar enough to  
3 the circumstances in the underlying charged offenses.  
4

### 5 **3. Motion to Bar Specific Instances of "Good Acts" offered by Defendants**

6 Generally, "[e]vidence of a person's character or character trait is not admissible to prove  
7 that on a particular occasion the person acted in accordance with the character or trait." Fed. R.  
8 Evid. 404(a)(1).  
9

10 Here, because of the Government's Domestic Terrorist designations of Ms. Fiore, and the  
11 issued as Band Levels and the modifications of same, Ms. Fiore has an absolute right to provide  
12 admissible evidence of non-propensity in this case.  
13

14 In addition, it is telling that the Government has included such language as "brazen  
15 example" and "tragedy of Officer Beck's murder" to denigrate Ms. Fiore's reputation and character  
16 in its Omnibus Motion in Limine, which foreseeably has allowed the press to the public filings in  
17 this case, which has written articles that are one sided and which have rightly inflamed the public  
18 if the Government's accusations were actually true. Furthermore, the Government's language has  
19 foreseeably colored the opinions of potential jurors who will be on this panel, with no way for Ms.  
20 Fiore to defend herself before trial. *See* ECF No. 29, at pages 2-3.  
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23 A criminal defendant may present evidence of his own character in the form of opinion  
24 testimony or reputation testimony. Fed. R. Evid. 404(a)(2)(A), 405(a). However, specific instances  
25 of conduct are admissible only when the character trait is "an essential element of a charge, claim,  
26 or defense." Fed. R. Evid. 405(b).  
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1           The voluminous discovery in this case and witness lists and statements demonstrates the  
2           Governments reliance on 404(b) evidence that they intend on presenting, identified in its Notice of  
3           Intent to Introduce 404(b) Evidence filed under seal, and objected to in Ms. Fiore's Motion in  
4           Limine to Exclude Rule 404(b) Evidence. *See* ECF NO. 30. An essential element of the charges  
5           requires specific intent to commit the crime, or the requisite mens rea on each and every one of the  
6           Counts. Ms. Fiore is entitled to present admissible evidence of character that addresses any of the  
7           charges, claims or defenses in this case.  
8

9  
10           Although Rule 404(a) determines when character evidence may be admissible, Rule 405  
11           "determine[s] what form that evidence may take." *United States v. Keiser*, 57 F.3d 847, 855 (9th  
12           Cir. 1995) (emphasis in original); see also Advisory Committee Notes, Fed. R. Evid. 404 ("Once  
13           the admissibility of character evidence in some form is established under [Rule 404], reference  
14           must then be made to Rule 405, which follows, in order to determine the appropriate method of  
15           proof.").

16  
17           Under limited circumstances, however, Rule 405 allows two methods by which the  
18           government can prove a character trait with specific instances of the defendant's conduct: (a)  
19           discrediting a character witness's testimony during cross-examination; or (b) proving or disproving  
20           character "[w]hen a person's character or character trait is an essential element of a charge, claim,  
21           or defense." *See Fed. R. Evid. 405(a)–(b)*.  
22  
23

24           The Government "has the burden of proving that the evidence meets all of the above  
25           requirements." *See United States v. Lague*, 971 F.3d 1032, 1035 (9th Cir. 2020) *United States v.*  
26           *Arambula-Ruiz*, 987 F.2d 599, 602 (9th Cir. 1993). Under Rule 404(b), "the government ... bears  
27           the burden of proving a logical connection between appellant's purported involvement in the  
28

1 previous [act] and a material fact at issue in the crime with which he was charged." *United States v.*  
2 *Mayans*, 17 F.3d 1174, 1183 (9th Cir. 1994).

3  
4 Furthermore, the Government has emphasized the "confusion, unfair prejudice, and  
5 substantial delay that would result if [defendant was] permitted to introduce evidence of each of  
6 [her] purported good acts", as a reason to bar the defendant from presenting her theory of defense,  
7 yet has yet to produce bates numbers for the exhibits it intends to introduce at trial, explaining that  
8 it can only provide such information at trial. The Government has had more than five years to  
9 investigate and present to a grand jury what they believe are Ms. Fiore's charges that they can  
10 prove beyond a reasonable doubt, but they cannot provide the bates stamp numbers to their own  
11 exhibit list. This position flies in the face of their argument of "confusion, unfair prejudice, and  
12 substantial delay", let alone the practice in this jurisdiction of disclosing exhibit lists with  
13 corresponding bates stamp numbers. Defendant has worked diligently to review all of the almost  
14 90,000 pages of discovery in six weeks, yet the Government cannot identify to Ms. Fiore what  
15 specific documents it will show a jury at trial... until Ms. Fiore is in trial.  
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#### 19 **4. Motion for Corrected/Supplemented Notice of Expert Discovery**

20 In the superseding indictment, the Government identifies a charity, and a political action  
21 committee. It is foreseeable that the Government will try to discuss a campaign account. Based  
22 upon the Government's witness list, no one has been identified as an expert from the Government  
23 to educate the jury as to the differences of each. Such information is critical to ensure that the jury  
24 understands each entity discussed during the trial.  
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1 In discussions with the Government in which this concern was addressed, the Government  
2 believes that the Nevada Secretary of State representative can correctly educate the jury as each  
3 type of entity. Mr. Aloian is available to do the same. In the end, as long as the jury can properly  
4 understand the differences to each from the Government's witness, Mr. Aloian's expert testimony  
5 regarding that question would be moot.  
6

7 **5. Motion for Pre-Trial Daubert Hearing**  
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9 Ms. Fiore would not object to a pre-trial Daubert hearing of Mr. Aloian as long as  
10 whomever the Government intends on using to educate the jury as to the differences between a  
11 charity, a political action committee, and a campaign fund, is also properly vetted. Once again,  
12 this is only to ensure that the jury is properly educated as to the differences of each.  
13

14 Dated: September 10, 2024.

15 By: 

16 Michael Sanft, Esq.

17 *Attorney for Michele Fiore*  
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